

Notice
of
Rulemaking

Tennessee Regulatory Authority

There will be a hearing before the Tennessee Regulatory Authority to consider the promulgation of rules and the amendment of rules pursuant to Tennessee Code Annotated, Section 65-2-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Hearing Room of the Tennessee Regulatory Authority Building, 460 James Robertson Parkway, Nashville, Tennessee at 9:00 a.m. on the 16th day of September, 1999.

Any individuals with disabilities who wish to participate in these proceedings should contact the Tennessee Regulatory Authority to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the agency's ADA Coordinator at 460 James Robertson Parkway Nashville, TN 37243-0505, and (615) 741-2904.

For a copy of this notice of rulemaking hearing, contact: K. David Waddell, Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN, and (615) 741-2776.

Substance of Proposed Rules

Amendments

Paragraph (2) of Rule 1220-4-2-.55 Regulatory Reform. is amended by deleting the paragraph in its entirety and substituting instead the following new language so that, as amended, the paragraph shall read:

(2) Interexchange Carriers

(a) Definitions.

1. "Certificated interLATA resellers" are non-facilities based telecommunications companies providing intrastate interLATA service as a reseller which are subject to Rule 1220—4—2—.57, and any portion of this rule sub-section in which said resellers are specifically mentioned.

2. "Intrastate interLATA services" are those services that provide two-way voice or data communications between points in different LATAs.
3. "Interexchange carriers" (IXC) are companies owning facilities in the state which consist of network elements and switches, or other communication transmission equipment used to carry voice, data, image, and video traffic across the LATA boundaries within Tennessee (i.e., intrastate interLATA communications) or to carry any other communications traffic approved by the Authority for these carriers.
4. "Local exchange service" is two-way voice or data service that originates and terminates within a local calling area.
5. "Tariff or price filing date" with the Authority shall mean the date on which the new tariff filing or price sheet is first published in the Authority's weekly, tariff sheet.

(b) Certification Requirements.

1. All corporations, business entities, or persons offering intrastate interLATA services shall be required, in accordance with T.C.A. §65-4-201, to obtain a certificate of public convenience and necessity from the Authority before commencing operations in this state. An applicant for such a certificate shall submit in addition to that information required by T.C.A. §65-4-201 and any other applicable state statute or federal court ruling, the following information: (i) its name, address and telephone number; (ii) its corporate ownership; (iii) the name, address and telephone number of its corporate parent or parents, if any; (iv) a list of its officers and directors, or, if the applicant is not a corporation, a list of its principles and their directors if said principles are corporations, and; (v) the names, addresses and telephone number of its legal counsel.

This sub-part shall not apply to certificated interLATA resellers who shall be subject to the certification provisions of Rule 1220—4—2 —.57.

2. Certificates of convenience and necessity previously issued by the Authority authorizing intrastate interLATA service shall remain in effect, and IXCs holding such certificates on the effective date of this subsection are not required to take any additional action as a result of the adoption of this subsection.
3. After public notice and hearing, the Authority shall grant a certificate for intrastate interLATA service if it finds that (i) the applicant possesses sufficient managerial, financial, and technical abilities to provide the service; (ii) the applicant has demonstrated that it will adhere to and abide by all applicable Authority policies, rules and orders; and (iii) that a grant of the certificate is in the public interest.

4. Nothing in this subsection shall be construed to allow an IXC to provide local telephone service without first obtaining a local service provider certificate.

(c) Tariffing Rules and Regulations.

- 1 Unless the Authority determines otherwise, certificated interstate interexchange carriers shall be required in accordance with T.C.A. §65-5-202 to file tariffs and price lists for all intrastate services offered in Tennessee. Such tariffs shall include (i) a description of every intrastate service offered, and; (ii) terms and conditions for each service. The Authority may approve such tariffs without the necessity of a formal hearing.
2. Each service shall be made available at the rate specified in IXC tariffs to any customer meeting the terms and conditions for that service.
3. Any IXC required to justify a price change or new tariff with the Authority shall bear the burden of proof to show that the tariff filing is just and reasonable.
4. Tariff filings or price lists involving new services or rate reductions shall be suspended only upon a showing of good cause.

(d) Rate and Price Setting Requirements.

1. IXC services shall be classified as one of two categories of service: 1) Residential services and; 2) All Other services
 - (i) The Residential Services category shall include all services for which the majority of customers are classified as residential customers by the local exchange carrier for application of local service rates.
 - (ii) Any new service that is not classified as "residential" shall be placed in the All Other Services category.
- 2 The Authority shall only establish a net revenue cap for the Residential services category. The initial aggregate revenue cap for each IXC shall be that company's average intrastate revenue per minute for the Residential services category in effect on the effective date of this rule sub-section less the average intrastate switched access charges per minute for the residential services category in effect on the effective date of this rule sub-section.
3. The prices and price cap for the Residential services category shall be adjusted to reflect any changes in access charges to IXCs. The amount of any access charge change for the residential services category for each IXC shall be the per minute reduction based on total intrastate minutes of use

applied to the intrastate minutes of use in the residential services category for each IXC. The minutes of use shall be those reported in the most recent annual reports under sub-section (2)(i) 5. of this rule.

4. Prices for the All Other Services category may be reviewed in accordance with the provisions of this rule sub-section by the Authority.

(e) Price Increases or Decreases

1. Price reductions shall become effective on the tariff filing date. The Authority may however, review these reductions upon its own motion or upon the petition of any aggrieved party.
2. Prices may be increased thirty (30) days after the price list filing date and after approval by the Authority provided, however that prices for the Residential services category shall not be increased above the prescribed net revenue cap. Affected customers shall be notified by direct mail or by publication of a notice in a newspaper of general circulation in the affected service area thirty (30) days prior to the effective date of any rate increases. A copy of such notice shall be filed with the Authority concurrent with the tariff filing. Each proposed rate increase shall be accompanied by intrastate minutes of use for the service being increased, as reported in the most recent annual report for that company, the revenue impact of the proposed increase, and all other information necessary to demonstrate that the proposed increase does not exceed the net revenue cap for the residential services category.
3. Any change in the previously approved terms and conditions of a service requires thirty (30) days notice to both the Authority and the customer in order to enable the customer sufficient time to qualify for the service.

(f) New Services.

1. New services shall become effective upon filing of tariffs and price lists with the Authority. The Authority may however review these tariffs for new services upon its own motion or upon the petition of any aggrieved party.
2. Services or calling plans that automatically convert customers from an existing service shall not be classified as a new service. New services are those which are independent from other previously approved services and are filed separately from any existing service or calling plan.
3. The Authority may require the submission of additional information to use in setting any initial maximum net revenue cap deemed necessary for residential services.

(g) Special Services or Contracts.

1. A summary of any special contracts shall be filed with the Authority. The contract shall be made available to the Authority staff upon request. The Authority shall make a copy of the summary of the special contract available for inspection by any interested party.
2. Special contracts or special pricing packages shall be allowed as long as the service is available at the same rate to any customer meeting the special terms and conditions.
3. The terms and conditions of the special contract must relate to technological availability and capacity or volume requirements for the service at issue, and shall not include tying or bundling conditions, resale restrictions, or geographical restrictions not mandated by technological ability.

(h) Consumer Safeguards

1. No IXC or certificated interLATA reseller shall de-average rates for interLATA service without prior Authority approval.
2. No IXC or certificated interLATA reseller shall abandon residential services to any location in the state without prior Authority approval.
3. Certificated IXCs shall comply with the technology deployment requirements adopted by the Authority.
4. Certificated IXCs shall comply with service standards adopted by the Authority.
5. Certificated IXCs and certificated interLATA resellers shall comply with all extended area service toll-free calling plans deemed to be in the public interest by the Authority unless otherwise ordered by a court of law.
6. Failure to comply with the technology service, toll-free calling requirements, and any other rule or order adopted by the Authority may result in the investigation of whether the IXCs Tennessee operations continue to be in the public interest; and/or the Authority may fine the IXC pursuant to T.C.A. §65-4-120 for violation of a Authority Order or pursue any other enforcement remedy provided by state law.
7. All certificated IXCs and interLATA resellers are required to comply with Authority Rule 1220—4—2—.56 when switching a consumer to its preferred interexchange carrier.

8. If the public interest so warrants the Authority, the IXC's or any affected party may recommend or petition for the termination of price cap regulation.
9. Nothing in this subsection precludes the Authority from acting on its own motion to suspend a tariff or initiate an investigation on any prices or tariffs filed pursuant to this section.
10. Certificated IXC's and interLATA resellers shall participate in any support mechanism for Universal Service as may be approved by the Authority.


(i) IXC Reporting.

1. All IXC's shall be required to maintain books and records in a manner consistent with that required by the Federal Communications Commission for each company unless said reporting requirements are specifically waived or otherwise modified by the Authority.
2. The Authority shall monitor technology applications, quality of service and market share conditions through reports and oral presentations made by the IXC's. The Authority may request these reports and presentations on a periodic basis as required to provide the evaluation of service levels and technology deployment results and plans.
3. The IXC's shall respond to customer complaints pursuant to Authority Rule 1220—4—2—13.
4. In accordance with T.C.A. §65-4-305, each IXC shall file annually by April 1st, with the Authority a statement under oath setting forth accurately the amount of its gross receipts from all sources for the preceding calendar year.
5. Each IXC shall file reports annually by April 1st containing: (1) a description of new service offerings during the previous calendar year; (2) the previous calendar year's intrastate minutes of use, revenues, and access charges for each service included in the residential services category, and; (3) total intrastate revenues and minutes of use for the All Other category, and; (4) listing of all rate adjustments made during the year including the impact on intrastate revenues.
6. Each certificated IXC or certificated interLATA reseller shall file with the Authority any other reports as required by law.

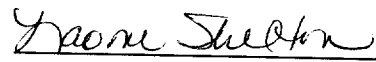
7. Nothing in this rule precludes the Authority from acting on its own motion to require additional reports which it deems necessary.

Authority: T.C.A. §§65-2-102, 65-4-104, 65-4-111, 65-4-201, 65-5-202 and 65-5-203.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Regulatory Authority.


K. David Waddell
Executive Secretary

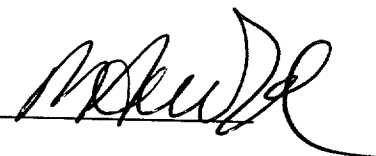
Subscribed and sworn to before me this the 29th day of July, 1999.


Notary Public

My commission expires on the 30th day of November, 2002.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30 day of July, 1999.


Riley C. Darnell
Secretary of State

By: 

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